

REMARKS/ARGUMENTS

Claims 1-9, 12-17, 19-31, 34 and 35 are pending in the application. The claims have not been amended.

35 U.S.C. § 103 Rejections

Claims 1-9, 12-17, 19-31, 34 and 35 are rejected as being obvious in view of U.S. Patent No. 7,064,088 to Hyodo et al. (“Hyodo”) in view of U.S. Patent No. 7,087,271 to Rhee et al. (“Rhee”).

Applicants maintain that the claims are patentable for at least the reasons described in the previous Amendments, namely that prior to Applicants’ invention, carbon doped oxide layers were not able to have low-k and low tensile stress. Hyodo describes two separate films, a low-k insulation film (having relatively poor mechanical properties) and a higher k hard film. The low-k insulation film as a k of 2.7 or less, while the hard film has a k between 3 and 4. Rhee describes low-k films. As there is no teaching in either reference of how to obtain a film having the hardness of Hyodo’s hard film and the low k of Hyodo and Rhee’s insulation films, combining the two references would result in a typical low-k insulation type film having relatively poor mechanical properties.

However, solely to advance prosecution, Applicants are submitting a Rule 131 Declaration that effectively removes Hyodo as prior art. Hyodo has a filing date of April 11, 2003. Hyodo claims priority to the following applications:

10/317,239 filed December 11, 2002

09/827,616 filed April 6, 2001

09/243,156 filed February 2, 1999

Review of the ‘239 and ‘616 applications show that the subject matter relied in Hyodo for the rejection of claim 1, namely the “hard film” having a dielectric constant of less than 4 and a stress of between about 0 and 300 MPa (column 14, lines 65-67 of Hyodo) is not present in these applications. Rather these applications describe only the “insulation films” that are described in the Hyodo reference.

Accordingly, Applicants submit the effective date of Hyodo for the subject matter relied upon in the rejection is April 11, 2003. At least because Applicants’ Rule 131 Declaration establishes that Applicants were in possession of the inventive concepts of claim 1 prior to this

date, Applicants submit that claim 1 and its dependent claims are patentable over the combination of Hyodo and Rhee.

CONCLUSION

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below. If it is determined that any additional fees are due, the Commissioner is hereby authorized to charge such fees to Deposit Account 504480 (Order No. NOVLP091).

Respectfully submitted,

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